

## REMARKS

A petition for a two month extension of time has today been filed as a separate paper and a copy is attached hereto.

The undersigned wishes to thank the examiner for this time and courtesy in the telephone interview of January 12, 2005. The telephone interview was requested for the purpose of discussing the applicability of MPEP § 2173.05(i) to the issue of new matter, also raised as an issue under the first paragraph of 35 USC 112 in the outstanding final rejection. The applicability of MPEP § 2173.05(i) was discussed in the first paragraph at page 6 of applicant's previous response filed August 2, 2004. As stated in the examiner's "Interview Summary" mailed January 14, 2005, the examiner took the position that MPEP § 2173.05 did not apply to the facts here because:

The specification needs to set forth both possible embodiments, that being the bellows and non-bellows forms, of the bladder in order to provide support in the specification for the claim language. The drawings are not considered to show a non-bellows embodiment for the instant apparatus but only for the prior art... Such is considered new matter when all drawings except prior art drawing Fig. 1 show some sort of undulation in the bladder wall which would be considered showing a bellows form of bladder only, especially when Fig. 2 shows undulated walls with both ends of the bladder in contact with the end walls of the outer tank while the bladder is at rest.

In view of the above position taken by the examiner, by the present amendment, the language "non-accordion" has been substituted for "non-bellows." In this connection it is important to note that "accordion shape" is equated with what applicant means by

“bellows” in paragraphs [0011] and [0035]. Further, non-accordion is used in the claim to modify “bag” which is defined by Webster’s New Collegiate Dictionary (Attachment A) and by Webster’s New International Dictionary (Attachment B) as “creased or hinged so as to fold like an accordion.” The bladder bags shown in the embodiments of Figs. 2, 3, 5 and 6 of applicant’s drawings are neither creased nor hinged.

In telephone conversation the examiner also noted that he could find no teaching in the specification where both the “bellows” (accordion shape) embodiments and the bladder bag embodiments are listed as alternatives. It is respectfully submitted that the MPEP guidelines for support for a negative embodiment are not so stringent. MPEP § 2173.05(i), entitled “Negative Limitations”, states: “If alternative elements are positively recited in the specification they may be explicitly excluded in the claims.” In this connection note paragraph [0032] where the “bellows” embodiment of Figs. 4(A) and 4(B) is described as “another alternative embodiment of the present invention.” Also note paragraph [0033] where Figs. 5 and 6 are referred to as showing the wall of the bladder used in the embodiments of Figs. 2 and 3 and Fig. 7 is characterized as showing the wall structure of the bladder of the embodiments of Figs. 4(A) and 4(B). Of course, the Brief Description of the Drawings also describes the embodiments of Figs. 2, 3, 4(A) and 4(B) as different preferred embodiments. It is respectfully submitted that those skilled in the art, or even a casual unskilled observer, would recognize that applicant’s specification is disclosing both accordion shaped and non-accordion shaped embodiments of the bladder as alternatives.

In telephone conversation the examiner also indicated that, in his view, “non-pleated” might be a more accurate description of the embodiments of Figs. 2 and 3 of applicant’s drawings. If the examiner remains of the view that “non-pleated” is a more accurate and precise term, he is hereby authorized to substitute it for the language “non-accordion.”

It is respectfully submitted that the present amendment and the foregoing argument constitutes a full answer to the examiner’s objection to the specification under 35 USC 132 and to the rejection of claims under the first paragraph of 35 USC 112 as failing to comply with the written description requirement.

The rejections for obviousness over Drumm in view of Weber and Taylor are respectfully traversed. At page 5 of the office action the examiner relies upon “Taylor” for disclosure of a “non-bellows bag”. At the outset, it should be noted that there is no “Taylor” reference in either the prior art newly cited in the office action of September 24, 2004 or in the art previously made of record. However, at the bottom of page 3 of the office action the examiner characterizes the rejection as based in part on “Taylor (3,526,580)”. Accordingly, in the remarks which follow, it will be assumed that the examiner’s reference to “Taylor” was intended to be a reference to Webb - U.S. 3,526,580.

In any event, it is respectfully submitted that the combination of the disclosures of Drumm and Webb, in the manner adopted by the examiner, is not *prima facie* obvious.

Drumm relates to a fluid pressure accumulator (column 1, lines 5-19), not a chemical storage tank. On the other hand, Webb relates to storage tanks for containing “extremely reactive chemicals” (column 2, lines 1 and 2) such as “liquid propellants for the rocket motors of missiles” (column 2, lines 24-29). The apparatus of Webb is not intended to be used as an accumulator or as a pressure storage device.

At page 5 of the office action the examiner writes:

It would have been obvious to one skilled in the art to modify the bladder in Drumm to be formed as a non-bellows bag provided with a metal and plastic layer as such is known equivalent type of bladder used in accumulators as suggested by Taylor where such would provide for a cheaper and simpler bladder to that of the accordion pleated metal only bladder of Drumm.

There are at least several problems with the examiner’s position. Firstly, Webb nowhere suggests that the membrane of his storage apparatus is equivalent to a bladder used in a pressure accumulator of the type disclosed by Drumm or of any other type. Secondly, the “cheaper and simpler” concept appears to be a concept which exists only in the examiner’s mind, a concept which is not necessarily true and a concept which is totally unsupported by the reference teachings.

The rejection of claims 14, 16, 18 and 20 for obviousness with the additional citation of Miller is respectfully traversed because Miller in no way cures the impropriety of the combination of Drumm and Webb noted above.

The rejections of claims 11 and 19 for obviousness are also traversed for the reason that the basic combination of Drumm and Webb is improper for the reasons stated above. The rejection of claim 19 is further traversed for the reasons that follow.

At page 9 of the office action the examiner writes:

It would have been obvious to one skilled in the art to modify the location of the spring in Drumm as modified with the spring that surrounds the valve as suggested by Legrand to insure that the valve is provided with the right amount of force to properly control the shut-off of fluid at a specific pressure and such is merely a choice of mechanical expedience to locate the spring outside of the valve rather than below as such would also decrease the chance that the valve would actuate at an improper angle when the wider spring bottom would prevent this.

The examiner's attention is directed to the language of claim 11 which reads:

said coil spring, upon contact with said bladder, prevents said bladder from being extruded through said shut-off valve and preventing said bladder from contacting the shut-off valve until the volume of the fluid within said accumulator falls to said predetermined low value.

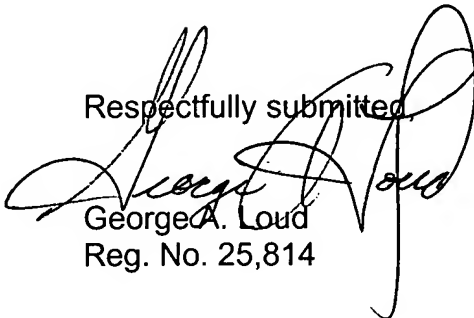
As the examiner noted in telephone conversation, claim 11 reads on spring 38 of Fig. 3 rather than spring 26 of Fig. 2. Thus, while the spring 31 of Legrand might be regarded as relevant to the embodiment of Fig. 2 of applicant's drawings, it has no apparent relevance to the embodiment of Fig. 3 as defined by claim 11.

Note that the bladder in Legrand never touches valve 37 and is wholly incapable of being extruded therethrough. The valve 37 in Legrand is normally closed and is urged onto the seat by a spring (column 4, lines 55-57).

In applicant's invention, as defined by claims 11 and 19, the spring does not serve to "properly control the shut-off of fluid as specific pressure" as supposed by the examiner. Rather, the spring is selected to prevent the bladder from entering into the fixture around the valve, i.e., "from being extruded through said shut-off valve." In neither Drumm nor Legrand is the bellows bladder capable of being "extruded through said shut-off valve." If a spring element were to be located outside of the valve in a manner biasing the valve toward an open position "to insure that the valve is provided with the right amount of force to properly control the shut-off" as envisioned by the examiner's remarks, it would not be arranged in a manner "preventing said bladder from contacting the shut-off valve until....," quoting from claim 11.

In conclusion, it is respectfully requested that the examiner reconsider the rejections of record with a view toward allowance of the claims as amended.

Respectfully submitted,




George A. Loud  
Reg. No. 25,814

Dated: February 24, 2005

LORUSSO, LOUD & KELLY  
3137 Mount Vernon Avenue  
Alexandria, VA 22305

(703) 739-9393



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# New Collegiate Dictionary

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account vb [ME *accounten*, fr. MF *acompter*, fr. *a-* (fr. L. *comptare* 'to count') *vi* 1: to probe into; ANALYZE 2: to list as; CONSIDER <~s himself lucky> ~ *vi* 1: to furnish a *syn* analysis or explanation. — used with *for* b: to bring about the c death, or destruction of something <~ed for two rabbits>  
account-able \ə-ˈkaunt-ə-bəl\ *adj* 1: subject to. give ACCOUNT: ANSWERABLE 2: capable of being accounted for PLAINABLE — ac-count-abil-ty \ə-ˈkaunt-ə-bil-ət-i\ *n* — ac-count-able-ness \ə-ˈkaunt-ə-bəl-nəs\ *n* — ac-count-ably *adv*  
ac-coun-tan-cy \ə-ˈkaunt-n-sē\ *n*: the profession or prac accounting.  
ac-coun-tant \ə-ˈkaunt-nt\ *n* 1: one that gives an accou accountable 2: one who is skilled in the practice of accou who is in charge of public or private accounts — ac-cou ship \-nt(ə)-ship\ *n*  
account book *n*: a book in which accounts are kept: ~ book  
account executive *n*: a business executive (as in an adv agency) responsible for the management of a client's accou  
ac-count-ing \ə-ˈkaunt-ɪŋ\ *n* 1: the system of recordi summarizing business and financial transactions in boo analyzing, verifying, and reporting the results; also: the pri and procedures of accounting 2 a: practical applica accounting b: an instance of applying the principles and dures of accounting  
accounting machine *n*: a business machine that is key-o or uses stored data (as punch cards) and that tabulates ~ subtracts, or totals  
account payable *n*, *pl* accounts payable: the balance c creditor on a current account  
account receivable *n*, *pl* accounts receivable: a balan from a debtor on a current account  
ac-cou-tre or ac-cou-ter \ə-ˈküt-ər\ *vi* <ac-cou-tred or ac-cou-tring or ac-cou-ter-ing \-küt-ər-ɪŋ, -küt-ɪŋ\ [F *accou MF accouterer*, fr. *a-* + *couter* 'seam', fr. (assumed) VL *co* fr. L *consutus*, pp. of *consuere* 'to sew together', fr. *com-* + *sew* — more at SEW]: to provide with equipment or furn: OUTFIT *syn* *see* FURNISH  
ac-cou-tre-ment or ac-cou-ter-ment \ə-ˈküt-trə-mənt, -mənt\ *n* 1: the act of accoutering: the state of being acc 2 a: an article of equipment or dress esp. when used accessory b: EQUIPMENT, TRAPPINGS *specif*: a soldier's o not including clothes and weapons — usu. used in *pl*: identifying and often superficial characteristic  
ac-cred-it \ə-ˈkred-ət\ *vi* [F *accréditer*, fr. *ad-* + *credit* cr: to consider or recognize as outstanding 2: to give authorization to or approval of: a: to provide with cre *esp*: to send (an envoy) with letters of authorization recognize or vouch for as conforming with a standard recognize (an educational institution) as maintaining standa qualify the graduates for admission to higher or more sp institutions or for professional practice 3: CREDIT *syn* PROVE — ac-cred-i-table \ə-ˈbəl\ *adj* — ac-cred-i-ta-t \-kred-ə-ˈtā-shən\ *n*  
ac-crete \ə-ˈkret\ *vb* ac-creted; ac-cret-ing [back-form 'accretion'] *vi* 1: to grow or become attached by accretion: to cause to adhere or become attached: ACCUMULATE — ac-cre-tion \ə-ˈkret-shən\ *n* [L *accretio*, *accretio*, fr. *accrescere* — more at ACCRUE] 1: the process of enlargement: as a: increase by external addition or accu (as by adhesion of external parts or particles) b: the inc land by the gradual or imperceptible action of natural f: a product of accretion; *esp*: an extraneous addition grime> 3: coherence of separate particles: CONCRETE cre-tion-ary \-shə-nēr-ē\ *adj* — ac-cre-tive \ə-ˈkret-iv\ *adj*  
ac-cru-al \ə-ˈkru-əl\ *n* 1: the action or process of acc: something that accrues or has accrued  
ac-crue \ə-ˈkru\ *vb* ac-cruded; ac-cru-ing [ME *accruen*, MF *accruere* 'increase', fr. *acrescere* 'to increase', fr. L *accrescere* + *acrescere* to grow — more at CRESCENT] *vi* 1: to cc existence as a legally enforceable claim 2: to come by increase or addition: arise as a growth or a result 3 periodically accumulated whether as an increase or a debt: COLLECT, ACCUMULATE — ac-cru-able \ə-ˈkru-ə-bəl\ *adj* — ac-cru-ement \-kru-mənt\ *n*  
acct *abbr* account; accountant  
ac-cul-turate \ə-ˈkəl-cha-rət\ *vt* -ated; -at-ing [back-fr 'acculturation']: to change through acculturation  
ac-cul-tura-tion \ə-ˈkəl-cha-rə-ti-shən\ *n* 1: a process of tural, borrowing between diverse peoples resulting in: blended patterns; *esp*: modifications in a primitive resulting from contact with an advanced society 2: the beginning at infancy by which a human being acquires th of his society — ac-cul-tura-tion-al \-shənəl, -shən-əl\ *adj*  
ac-cul-tu-ative \ə-ˈkəl-cha-rət-iv\ *adj*  
ac-cu-mu-late \ə-ˈkyu-myə-lāt\ *vb* -lated; -lat-ing [cumulative, pp. of *accumulare*, fr. *ad-* + *cumulare* 'to be more at CUMULATE'] *vi* 1: to heap or pile up: AMA fortune> 2: COLLECT, GATHER <a composer accumula award after another> ~ *vi*: to increase in quantity or  
ac-cu-mu-la-tion \ə-ˈkyu-myə-lā-ti-shən\ *n* 1: the action cess of accumulating: the state of being or having accum: increase or growth by addition *esp*. when continuous or <~ of interest> 3: something that has accumulated or accumulated  
ac-cu-mu-la-tive \ə-ˈkyu-myə-lāt-iv, -lāt-\ *adj* 1: CU <an age of rapid and ~ change> 2: tending or accumulation: ac-cu-mu-la-tive-ly *adv* — ac-cu-mi-ness *n*  
ac-cu-mu-la-tor \ə-ˈkyu-myə-lāt-ər\ *n*: one that accum a: SHOCK ABSORBER b Brit: STORAGE CELL. c: a part computer) where numbers are totaled or stored



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